

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL HART,
Personal Representative of the
Estate of Cody Serda,

Plaintiff,

v.

Civ. No. 1:19-cv-00529 MIS/JFR

STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY,

Defendant.

ORDER SETTING JURY TRIAL

THIS MATTER is hereby set for trial in accordance with the following schedule, requirements, and deadlines:

A. JURY TRIAL:

The **Jury Selection and Jury Trial** will begin at **9:00 a.m. on September 11, 2023**, in the Guadalupe Courtroom, United States Courthouse, 100 N. Church Street, Las Cruces, New Mexico. The trial is set for **5 days**, excluding weekends and federal holidays. Counsel shall be present in the courtroom no later than 8:30 a.m. on the first day of trial. Parties should expect proceedings to begin at 8:30 a.m. on subsequent days of trial.

B. PRETRIAL CONFERENCE:

A **Pretrial Conference** will be held at **8:30 a.m. on Tuesday, August 1, 2023**, in the Guadalupe Courtroom, United States Courthouse, 100 N. Church Street, Las Cruces, New Mexico. Lead counsel must be present in person for the Pretrial Conference. Other attorneys wishing to appear by Zoom may do so by contacting chambers via email (cc'ing all counsel) to request Zoom access at least **SEVEN (7) DAYS** prior to the Pretrial Conference. The parties need not be present at the Pretrial Conference. All pending pretrial motions, including motions in limine and *Daubert* motions, will be heard during the Pretrial Conference.

C. MOTIONS IN LIMINE:

All motions in limine¹ are due no later than FOUR (4) WEEKS before the Pretrial Conference. Any responses or objections shall be filed no later than TWO (2) WEEKS before the Pretrial Conference. Replies to motions in limine will not be considered unless they are specifically authorized by the Court.

D. TRIAL DOCUMENTS:

No later than THREE (3) WEEKS before the Pretrial Conference, counsel shall submit the following documents to the Court:

- (1) Exhibit Lists: The parties shall **jointly** file a consolidated list of all stipulated exhibits. Each offering party must file a **separate** list of all contested exhibits. The Court encourages the parties to resolve disputes over the authenticity and foundation of exhibits as soon as possible. If testimony is required to authenticate or lay the foundation for any exhibits, the Court will hear such testimony at the Pretrial Conference.²
- (2) Exhibit Binders: The parties shall deliver to chambers two identical copies of a binder containing the stipulated exhibits. Additionally, each side must deliver to chambers two identical copies of a binder containing its contested exhibits. All exhibits must be marked and shall be **labeled consecutively by number**. In order to allow sufficient time to determine which exhibits are contested, each party must send a list of its proposed exhibits to the opposing party at least one week in advance of the Court's deadline.
- (3) Joint Statement of the Case: The parties shall **jointly** file a clear, concise statement of the case, to be read by the Court to the jury at the beginning of jury selection. If counsel are unable to agree to a joint statement of the case, each party must file a separate statement of the case.
- (4) Witness Lists: The parties shall file witness lists disclosing all witnesses that will or may be called at trial. The list must indicate whether the witness is testifying

¹ Motions challenging the admissibility of expert testimony under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), are not motions in limine. *Daubert* motions shall be filed no later than the dispositive motions deadline set by the Magistrate Judge.

² In the event that testimony is required to authenticate or lay the foundation for exhibits, counsel are responsible for ensuring the presence of all necessary witnesses at the Pretrial Conference.

by deposition or in person, whether the witness *will* be called or *may* be called, and whether the witness will offer any opinion testimony.

(5) Designations of Deposition Testimony: The parties shall file designations, and counter-designations, of deposition testimony that they intend to use at trial. The designations must state the pages and lines of the deposition to be used. Markings must comply with D.N.M.LR-Civ. 10.6.

(6) Proposed Verdict Form: The parties shall draft and **jointly** file a proposed verdict form. If the parties are unable to agree on a form, each party must file its own proposed verdict form. The form(s) must also be emailed to chambers at StricklandProposedText@nmd.uscourts.gov in a format compatible with MS Word.

(7) Proposed Jury Instructions: Counsel shall meet and confer about proposed jury instructions setting forth the elements of claims and defenses. A stock set of jury instructions is available at <http://www.nmd.uscourts.gov/content/honorable-stephan-m-vidmar>. The parties shall **jointly** submit a set of requested jury instructions to which all parties agree. For those instructions on which no agreement could be reached, each party must **separately** file its own proposed instructions, to include an explanation of the legal basis for its position. No stipulated instruction should be repeated in a party's contested set of jury instructions. There should be only one (1) instruction per page and each instruction must include a citation to supporting authority at the bottom of the page.

(8) Voir Dire: Counsel are **not** required to submit proposed voir dire questions to the Court. However, no later than the deadline noted above, counsel shall notify the Court of the time requested to conduct voir dire by emailing StricklandProposedText@nmd.uscourts.gov.

E. OBJECTIONS TO TRIAL DOCUMENTS:

No later than TWO (2) WEEKS before the Pretrial Conference, parties shall submit all objections to the above-listed trial documents (i.e., exhibits, statement of the case, witnesses, designations of deposition testimony, proposed verdict form, and proposed jury instructions). **The parties must confer about any disputes prior to filing objections.**

F. PRETRIAL ORDER:

A proposed Pretrial Order is due to the Court no later than TWO (2) WEEKS before the Pretrial Conference.³ The Pretrial Order shall be **jointly** emailed to StricklandProposedText@nmd.uscourts.gov. A template is available on the District of New Mexico website under "Local Forms."

G. COURTROOM TECHNOLOGY:

Parties shall notify the Court no later than TEN (10) DAYS before trial if they plan to use audio-visual or other courtroom technology during trial. Parties are responsible for operating this equipment and should be prepared to proceed without it in the event of a technical failure.

H. SCHEDULE CHANGES:

All counsel have affirmed that they, their clients, and all of their witnesses are available on the above hearing and trial dates. "Available" means that they have no other personal or professional commitments including, but not limited to, matters scheduled on a trailing docket before another court. This trial setting **will not be rescheduled** absent good cause. In the event that a previously unforeseeable scheduling conflict arises, counsel shall immediately notify the Court.

IT IS SO ORDERED.



MARGARET STRICKLAND
UNITED STATES DISTRICT JUDGE

³ This Pretrial Order deadline supersedes any previously set deadlines.